

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
NORTHERN DIVISION

UNITED STATES OF AMERICA

v.

CRIMINAL CASE NO.
AMD-04-029

WILLIE MITCHELL,
SHELTON HARRIS,
SHELLY WAYNE MARTIN,
SHAWN GARDNER,

Defendants

VOLUME XXXVI OF XXXVI
Monday, December 8, 2008
Baltimore, Maryland

Before: Honorable Andre M. Davis, Judge
And a Jury

Appearances:

On Behalf of the Government:
Robert Harding, Esquire
Michael Hanlon, Esquire
On Behalf of Defendant Mitchell:
Laura Kelsey Rhodes, Esquire
Michael E. Lawlor, Esquire
On Behalf of Defendant Harris:
Gerard P. Martin, Esquire
Paul Flannery, Esquire
On Behalf of Defendant Martin:
Thomas L. Crowe, Esquire
James G. Pyne, Esquire
On Behalf of Defendant Gardner:
Adam H. Kurland, Esquire
Barry Coburn, Esquire

Reported by:
Mary M. Zajac, RPR
Room 5515, U.S. Courthouse
101 West Lombard Street
Baltimore, Maryland 21201

1 (Jury starts deliberating at 9:45 a.m.)

2 (Proceedings at 1:53 p.m. Jury not present. All
3 defendants are present.)

4 THE COURT: Counsel, we have a verdict from the jury.
5 Ladies and gentlemen, the Court welcomes you to the courtroom,
6 but understand that no one will be permitted to depart the
7 courtroom until after the Court has fully taken the verdict of
8 the jury and the jury has been excused.

9 So if you don't think you can remain for the entire
10 period, it is likely to take a few minutes because of the
11 complexity of the jury verdict form. All right. Madam Clerk,
12 you may bring in the jury.

13 Mr. Flannery, I saw your submission and I think you
14 misunderstood or Mr. Martin misunderstood. That's exactly what I
15 was inviting you to do, not to suggest language. So thank you.

16 MR. MARTIN: Can we consider it filed, Your Honor?

17 THE COURT: Yes.

18 MR. MARTIN: We haven't filed it electronically yet but
19 we will.

20 THE COURT: That's fine.

21 (Jury enters the courtroom at 1:54 p.m.)

22 THE COURT: Members of the jury, good afternoon. We've
23 been advised that you have reached a unanimous verdict. Please
24 follow the instructions of the clerk. You may call the role.

25 THE CLERK: Taking a verdict in Criminal Number

1 AMD-04-029, United States of America versus Willie Mitchell,
2 Shelton Harris, Shelly Martin and Shawn Gardner. Members of the
3 jury, would you please answer to roll call? Juror Number One?

4 A JUROR: Here.

5 THE CLERK: Juror Number Two?

6 A JUROR: Here.

7 THE CLERK: Juror Number Three?

8 A JUROR: Here.

9 THE CLERK: Juror Number Four?

10 A JUROR: Here.

11 THE CLERK: Juror Number Five?

12 A JUROR: Here.

13 THE CLERK: Juror Number Six?

14 A JUROR: Here.

15 THE CLERK: Juror Number Seven?

16 A JUROR: Here.

17 THE CLERK: Juror Number Eight?

18 A JUROR: Here.

19 THE CLERK: Juror Number Nine?

20 A JUROR: Here.

21 THE CLERK: Juror Number Ten?

22 A JUROR: Here.

23 THE CLERK: Juror Number 11?

24 A JUROR: Here.

25 THE CLERK: And Juror Number 12?

1 A JUROR: Present.

2 THE CLERK: Members of the jury, have you agreed of
3 your verdicts? Who shall say for you?

4 JUROR NUMBER 12: I shall.

5 THE CLERK: Mr. Foreman, will you please rise?

6 Has the verdict sheet been signed and dated by you?

7 THE FOREPERSON: They have.

8 THE CLERK: It's desired by the clerk to present to the
9 Court.

10 (Pause in Proceedings.)

11 THE COURT: You may return the verdict form to the
12 foreman. Mr. Foreman, I have applied a paper clip so that you
13 can hold on to the form. Given the length of the verdict, I'm
14 going to permit you to remain seated, but please keep your voice
15 up.

16 Taking the jury's verdict in Case Number AMD-04-0029.
17 Mr. Foreman, if you will respond to the Court's questions in
18 accordance with the verdict sheet you have completed on behalf of
19 the jury.

20 As to Count One, how do you find the defendant, Willie
21 Mitchell, as to Count One?

22 THE FOREPERSON: Guilty.

23 THE COURT: How do you find the defendant, Shelton
24 Harris?

25 THE FOREPERSON: Guilty.

1 THE COURT: How do you find the defendant, Shelly Wayne
2 Martin?

3 THE FOREPERSON: Guilty.

4 THE COURT: How do you find the defendant, Shawn
5 Gardner?

6 THE FOREPERSON: Guilty.

7 THE COURT: As to Count One, Mr. Foreman, how does the
8 jury find with respect to Racketeering Acts One through Nine?
9 Racketeering Act One?

10 THE FOREPERSON: Yes.

11 THE COURT: Racketeering Act Two?

12 THE FOREPERSON: Yes.

13 THE COURT: Racketeering Act Three?

14 THE FOREPERSON: Yes.

15 THE COURT: Racketeering Act Four?

16 THE FOREPERSON: Yes.

17 THE COURT: Racketeering Act Five?

18 THE FOREPERSON: Yes.

19 THE COURT: Racketeering Act Six?

20 THE FOREPERSON: Yes.

21 THE COURT: Racketeering Act Seven?

22 THE FOREPERSON: Yes.

23 THE COURT: Racketeering Act Eight?

24 THE FOREPERSON: Yes.

25 THE COURT: Racketeering Act Nine?

1 THE FOREPERSON: Yes.

2 THE COURT: Mr. Foreman, as to Count Two, murder in aid
3 of racketeering, how does the jury find with regard to defendant
4 Willie Mitchell?

5 THE FOREPERSON: Guilty.

6 THE COURT: With respect to Mr. Mitchell and Count Two,
7 does the jury find premeditated murder?

8 THE FOREPERSON: Guilty, yes.

9 THE COURT: As to second degree murder?

10 THE FOREPERSON: Guilty.

11 THE COURT: As to Count Two, murder in aid of
12 racketeering, Mr. Foreman, how does the jury find as to defendant
13 Shelton Harris?

14 THE FOREPERSON: Guilty.

15 THE COURT: As to premeditated murder?

16 THE FOREPERSON: Guilty.

17 THE COURT: As to second degree murder?

18 THE FOREPERSON: Guilty.

19 THE COURT: As to Count Three, Mr. Foreman, murder in
20 aid of racketeering, how does the jury find as to Count Three,
21 Mr. Mitchell?

22 THE FOREPERSON: Guilty.

23 THE COURT: As to Mr. Harris, Count Three?

24 THE FOREPERSON: Guilty.

25 THE COURT: As to Count Four, Mr. Foreman, as to

1 defendant Willie Mitchell, how does the jury find?

2 THE FOREPERSON: Guilty.

3 THE COURT: As to premeditated murder for Count Four?

4 THE FOREPERSON: Guilty.

5 THE COURT: As to second degree murder, Count Four?

6 THE FOREPERSON: Guilty.

7 THE COURT: As to felony murder, Count Four?

8 THE FOREPERSON: Guilty.

9 THE COURT: Again, with respect to Count Four, Mr.
10 Foreman, how does the jury find with regard to defendant Shelton
11 Harris?

12 THE FOREPERSON: Guilty.

13 THE COURT: As to premeditated murder?

14 THE FOREPERSON: Guilty.

15 THE COURT: As to second degree murder?

16 THE FOREPERSON: Guilty.

17 THE COURT: As to felony murder?

18 THE FOREPERSON: Guilty.

19 THE COURT: Moving to Count Five, murder in aid of
20 racketeering, Mr. Foreman. How does the jury find with regard to
21 defendant Willie Mitchell?

22 THE FOREPERSON: Guilty.

23 THE COURT: As to premeditated murder?

24 THE FOREPERSON: Guilty.

25 THE COURT: As to second degree murder?

1 THE FOREPERSON: Guilty.

2 THE COURT: As to felony murder?

3 THE FOREPERSON: Guilty.

4 THE COURT: As to Count Five, Mr. Shelton Harris,
5 defendant, how does the jury find?

6 THE FOREPERSON: Guilty.

7 THE COURT: As to premeditated murder?

8 THE FOREPERSON: Guilty.

9 THE COURT: As to second degree murder?

10 THE FOREPERSON: Guilty.

11 THE COURT: As to felony murder?

12 THE FOREPERSON: Guilty.

13 THE COURT: How does the jury find with regard to
14 defendant Shelly Wayne Martin, Count Five?

15 THE FOREPERSON: Not guilty.

16 THE COURT: Not guilty. How does the jury find with
17 regard to defendant Shawn Gardner, Count Five?

18 THE FOREPERSON: Not guilty.

19 THE COURT: Not guilty. Moving to Count Six, Mr.
20 Foreman, murder in aid of racketeering. How does the jury find
21 with regard to defendant Willie Mitchell?

22 THE FOREPERSON: Guilty.

23 THE COURT: As to premeditated murder?

24 THE FOREPERSON: Guilty.

25 THE COURT: As to second degree murder?

1 THE FOREPERSON: Guilty.

2 THE COURT: As to felony murder?

3 THE FOREPERSON: Guilty.

4 THE COURT: As to Count Six, Mr. Foreman, how does the
5 jury find as regarding defendant Shelton Harris?

6 THE FOREPERSON: Guilty.

7 THE COURT: As to premeditated murder?

8 THE FOREPERSON: Guilty.

9 THE COURT: As to second degree murder?

10 THE FOREPERSON: Guilty.

11 THE COURT: As to felony murder?

12 THE FOREPERSON: Guilty.

13 THE COURT: With respect to defendant Shelly Wayne
14 Martin, as to murder in aid of racketeering, Count Six, how does
15 the jury find as to Mr. Martin?

16 THE FOREPERSON: Not guilty.

17 THE COURT: As to defendant Shawn Gardner in Count Six,
18 murder in aid of racketeering, Mr. Foreman, how does the jury
19 find?

20 THE FOREPERSON: Not guilty.

21 THE COURT: Moving to Count Seven, Mr. Foreman. How
22 does the jury find with regard to defendant Shawn Gardner, Count
23 Seven?

24 THE FOREPERSON: Guilty.

25 THE COURT: As to premeditated murder?

1 THE FOREPERSON: Not guilty.

2 THE COURT: As to second degree murder?

3 THE FOREPERSON: Guilty.

4 THE COURT: As to felony murder?

5 THE FOREPERSON: Guilty.

6 THE COURT: Moving to Count Eight, Mr. Foreman.

7 Conspiracy to distribute narcotics. How does the jury find with
8 regard to defendant Willie Mitchell?

9 THE FOREPERSON: Guilty.

10 THE COURT: As to Mr. Mitchell, having found defendant
11 guilty of Count Eight, does the jury find beyond a reasonable
12 doubt that the conspiracy involved crack?

13 THE FOREPERSON: Yes.

14 THE COURT: With respect to the quantity in that count,
15 Mr. Foreman, does the jury find 50 grams or more?

16 THE FOREPERSON: Yes.

17 THE COURT: Moving to Mr. Mitchell, again, in Count
18 Eight, how does the jury find with regard to the conspiracy
19 regarding powder cocaine?

20 THE FOREPERSON: Guilty, yes.

21 THE COURT: As to powder cocaine, does the jury find
22 five kilograms or more?

23 THE FOREPERSON: Yes.

24 THE COURT: Moving on with Mr. Mitchell. Does the jury
25 find that said conspiracy involved possession with intent to

1 distribute heroin?

2 THE FOREPERSON: Yes.

3 THE COURT: With respect to Count Eight, Mr. Mitchell,
4 does the jury find beyond a reasonable doubt that the conspiracy
5 involved conspiracy with the intent to distribute marijuana?

6 THE FOREPERSON: Yes.

7 THE COURT: Regarding Count Eight, defendant Mr.
8 Harris, how does the jury find, Mr. Foreman?

9 THE FOREPERSON: Guilty.

10 THE COURT: With respect to Mr. Harris in Count Eight,
11 does the jury find that said conspiracy involved crack cocaine?

12 THE FOREPERSON: Yes.

13 THE COURT: Does the jury find beyond a reasonable
14 doubt unanimously that the conspiracy as to Mr. Harris involved
15 50 grams or more of cocaine, crack cocaine?

16 THE FOREPERSON: Yes.

17 THE COURT: With regard to Question 8 and Mr. Harris,
18 that is Count Eight, does the jury find that the conspiracy
19 involved less than 500 grams?

20 THE FOREPERSON: Yes.

21 THE COURT: Does the jury find that the conspiracy
22 involved 500 grams to under five kilograms?

23 THE FOREPERSON: Yes.

24 THE COURT: Does the jury find that the conspiracy
25 involved five kilograms or more?

1 THE FOREPERSON: No.

2 THE COURT: Moving on to Question Nine under Count
3 Eight, with respect to Mr. Harris, does the jury find that said
4 conspiracy involved possession or possession with the intent to
5 distribute heroin?

6 THE FOREPERSON: Yes.

7 THE COURT: Remaining with Mr. Harris under Count
8 Eight, the narcotics conspiracy, Mr. Foreman, how does the jury
9 find with respect to the conspiracy, whether it involved
10 marijuana?

11 THE FOREPERSON: Yes.

12 THE COURT: How does the jury find, Mr. Foreman, with
13 respect to defendant Shelly Wayne Martin regarding the conspiracy
14 alleged in Count Eight?

15 THE FOREPERSON: Guilty.

16 THE COURT: Remaining with Mr. Martin as to the
17 conspiracy alleged in Count Eight, does the jury find that that
18 conspiracy involved crack cocaine?

19 THE FOREPERSON: Yes.

20 THE COURT: Does the jury find that said crack cocaine
21 conspiracy as to Mr. Martin involved 50 grams or more?

22 THE FOREPERSON: Yes.

23 THE COURT: With respect to Mr. Martin and Count Eight,
24 does the jury find that said conspiracy involved powder cocaine?

25 THE FOREPERSON: Yes.

1 THE COURT: With respect to said powder cocaine
2 conspiracy, does the jury find as to Mr. Martin that said amount
3 exceeded five kilograms or more?

4 THE FOREPERSON: Yes.

5 THE COURT: With respect to Mr. Martin in Count Eight,
6 the conspiracy, does the jury find that said conspiracy involved
7 an intent to distribute heroin?

8 THE FOREPERSON: Yes.

9 THE COURT: With respect to Mr. Martin and Count Eight,
10 does the jury find that said conspiracy involved the intent to
11 distribute marijuana?

12 THE FOREPERSON: Yes.

13 THE COURT: With respect to Mr. Gardner in Count Eight,
14 the conspiracy to distribute narcotics, how does the jury find?

15 THE FOREPERSON: Guilty.

16 THE COURT: With respect to Mr. Gardner in Count Eight,
17 does the jury find that the conspiracy involved 50 grams or more
18 of crack cocaine?

19 THE FOREPERSON: Yes.

20 THE COURT: With respect to Mr. Gardner, does the jury
21 find that the conspiracy involved powder cocaine?

22 THE FOREPERSON: Yes.

23 THE COURT: Does the jury find unanimously beyond a
24 reasonable doubt that said conspiracy as to Mr. Gardner involved
25 five kilograms or more of powder cocaine?

1 THE FOREPERSON: Yes.

2 THE COURT: Does Mr. Gardner stand guilty or not guilty
3 as to said conspiracy in respect to distribution or possession
4 with the intent to distribute heroin?

5 THE FOREPERSON: Guilty, yes.

6 THE COURT: With respect to Mr. Gardner, under Count
7 Eight, did said conspiracy involved possession with the intent to
8 distribute or distribution of marijuana?

9 THE FOREPERSON: Yes.

10 THE COURT: Thank you. Mr. Foreman, moving on to Count
11 Nine.

12 With respect to Count Nine, Mr. Mitchell, defendant
13 Mitchell, how does the jury find?

14 THE FOREPERSON: Guilty.

15 THE COURT: With respect to Count Nine, does the jury
16 find that Mr. Mitchell was guilty of a crime of violence?

17 THE FOREPERSON: Yes.

18 THE COURT: With respect to Count Nine, does the jury
19 find that Mr. Mitchell acted in furtherance of a drug conspiracy?

20 THE FOREPERSON: No.

21 THE COURT: With respect to Count Nine, as to defendant
22 Shelton Harris, how does the, how does the jury find, Mr.
23 Foreman?

24 THE FOREPERSON: Guilty.

25 THE COURT: With respect to Count Nine, does the jury

1 find that Mr. Harris acted pursuant to a crime of violence?

2 THE FOREPERSON: Yes.

3 THE COURT: With respect to a drug conspiracy?

4 THE FOREPERSON: No.

5 THE COURT: With respect to Count Ten, Mr. Foreman, how
6 does the jury find with respect to defendant Willie Mitchell,
7 possession of a firearm?

8 THE FOREPERSON: Guilty.

9 THE COURT: With respect to Count Ten, again with
10 respect to defendant Mr. Mitchell, does the jury find that the
11 underlying crime was a crime of violence?

12 THE FOREPERSON: Yes.

13 THE COURT: With respect to Count Ten and Mr. Mitchell,
14 does the jury find beyond a reasonable doubt and unanimously that
15 the underlying crime was a drug conspiracy?

16 THE FOREPERSON: No.

17 THE COURT: With respect to Count Ten, as to defendant
18 Mr. Harris, Mr. Foreman, how does the jury find?

19 THE FOREPERSON: Guilty.

20 THE COURT: With respect to Count Ten and Mr. Harris,
21 does the jury find that the underlying crime was a crime of
22 violence?

23 THE FOREPERSON: Yes.

24 THE COURT: Does the jury find that the underlying
25 crime was a drug conspiracy?

1 THE FOREPERSON: No.

2 THE COURT: With respect to Count 11, Mr. Foreman, as
3 to Mr. Mitchell, possession of a firearm resulting in death, how
4 does the jury find?

5 THE FOREPERSON: Guilty.

6 THE COURT: Does the jury find as to Mr. Mitchell in
7 Count 11 that the death was willful, deliberate, malicious and
8 premeditated?

9 THE FOREPERSON: Yes.

10 THE COURT: Does the jury find as to Mr. Mitchell that
11 the crime was committed in perpetration of the murder of Oliver
12 McCaffity?

13 THE FOREPERSON: Yes.

14 THE COURT: With respect to Mr. Harris in Count 11 --
15 excuse me -- yes, Count 11, firearm possession, possession of a
16 firearm resulting in death, how does the jury find with respect
17 to Mr. Harris?

18 THE FOREPERSON: Guilty.

19 THE COURT: Does the jury find that said death was the
20 result of willful, deliberated malicious and premeditated intent?

21 THE FOREPERSON: Yes.

22 THE COURT: With respect to Count 11, the death of
23 Oliver McCaffity, was the death in Count 11 in the perpetration
24 of the murder of Oliver McCaffity, as to Mr. Harris?

25 THE FOREPERSON: Yes.

1 THE COURT: Moving to Count 12, Mr. Foreman, possession
2 of a firearm. How do you find as to Mr. Mitchell in Count 12?

3 THE FOREPERSON: Guilty.

4 THE COURT: Do you find that said possession was in
5 pursuit of a crime of violence?

6 THE FOREPERSON: Yes.

7 THE COURT: Do you find that the underlying offense was
8 committed in furtherance of a drug conspiracy?

9 THE FOREPERSON: Yes.

10 THE COURT: With respect to Mr. Harris in Count 12, Mr.
11 Foreman, how does the jury find with respect to Mr. Harris?

12 THE FOREPERSON: Guilty.

13 THE COURT: With respect to Mr. Harris, does the jury
14 find unanimously and beyond a reasonable doubt that the
15 underlying crime was a crime of violence?

16 THE FOREPERSON: Yes.

17 THE COURT: With respect to Mr. Harris, did the jury
18 find that the underlying crime was a drug conspiracy?

19 THE FOREPERSON: Yes.

20 THE COURT: Moving to Mr. Shelly Wayne Martin in Count
21 12, Mr. Foreman. How does the jury find as to Mr. Martin?

22 THE FOREPERSON: Not guilty.

23 THE COURT: Moving on to defendant Shawn Gardner, Mr.
24 Foreman. How does the jury find with regard to defendant Shawn
25 Gardner?

1 THE FOREPERSON: Not guilty.

2 THE COURT: Moving to Count 13, Mr. Foreman, possession
3 of a firearm resulting in death. How does the jury find with
4 regard to defendant Willie Mitchell?

5 THE FOREPERSON: Guilty.

6 THE COURT: Does the jury find that said death resulted
7 from a willful, deliberate, malicious and premeditated act?

8 THE FOREPERSON: Yes.

9 THE COURT: Does the jury find beyond a reasonable
10 doubt and unanimously that said death resulted in the
11 perpetration of robbery?

12 THE FOREPERSON: Yes.

13 THE COURT: Okay. Remaining with Count 13. How does
14 the jury find, Mr. Foreman, with respect to defendant Shelly
15 Wayne Martin?

16 MR. HARDING: Judge, you may have skipped over Shelton
17 Harris, Question Number Two under count --

18 THE COURT: I believe I did. Thank you.

19 With respect to Count 13, Mr. Foreman, how does the
20 jury find with respect to defendant Shelton Harris?

21 THE FOREPERSON: Guilty.

22 THE COURT: And as to Mr. Harris in Count 13, Mr.
23 Foreman, how does the jury find with respect to whether the death
24 resulted from a willful, deliberate, malicious and premeditated
25 intent?

1 THE FOREPERSON: Yes.

2 THE COURT: And with respect to the perpetration of
3 robbery?

4 THE FOREPERSON: Guilty.

5 THE COURT: Remaining with respect to Count 13, Mr.
6 Foreman, how does the jury find with regard to defendant Shelly
7 Wayne Martin?

8 THE FOREPERSON: Not guilty.

9 THE COURT: With respect to Count 13, Mr. Foreman, how
10 does the jury find with respect to defendant Shawn Gardner?

11 THE FOREPERSON: Not guilty.

12 THE COURT: Very well. Thank you, Mr. Foreman. Moving
13 on to Count 14, possession of a firearm resulting in death. How
14 does the jury find with respect to defendant Willie Mitchell?

15 THE FOREPERSON: Guilty.

16 THE COURT: With respect to Mr. Mitchell in Count 14,
17 does the jury find unanimously beyond a reasonable doubt that
18 said death was the result of a willful, deliberate, malicious and
19 premeditated act?

20 THE FOREPERSON: Yes.

21 THE COURT: With respect to Count 14 and Mr. Mitchell,
22 does the jury find that said death resulted in the perpetration
23 of robbery?

24 THE FOREPERSON: Yes.

25 THE COURT: With respect to Count 14, with respect to

1 defendant Shelton Harris, Mr. Foreman, how does the jury find?

2 THE FOREPERSON: Guilty.

3 THE COURT: Does the jury find said death resulted from
4 a willful, deliberate, malicious and premeditated act?

5 THE FOREPERSON: Yes.

6 THE COURT: Does the jury find unanimously and beyond a
7 reasonable doubt that said death resulted in the perpetration of
8 robbery?

9 THE FOREPERSON: Yes.

10 THE COURT: With respect to Count 14, Mr. Foreman, how
11 does the jury find with respect to defendant Shelly Wayne Martin?

12 THE FOREPERSON: Not guilty.

13 THE COURT: With respect to Count 14, Mr. Foreman, how
14 does the jury find with respect to defendant Shawn Gardner?

15 THE FOREPERSON: Not guilty.

16 THE COURT: Moving on, Mr. Foreman, to Count 15,
17 possession of a firearm, how does the jury find with respect to
18 defendant Gardner?

19 THE FOREPERSON: Guilty.

20 THE COURT: With respect to Mr. Gardner and Count 15,
21 does the jury find that the underlying offense was a crime of
22 violence?

23 THE FOREPERSON: Yes.

24 THE COURT: Does the jury find unanimously and beyond a
25 reasonable doubt that the underlying offense was a drug

1 conspiracy?

2 THE FOREPERSON: Yes.

3 THE COURT: Thank you, Mr. Foreman. Moving on to Count
4 16, possession of a firearm resulting in death. How does the
5 jury find with respect to defendant Shawn Gardner?

6 THE FOREPERSON: Guilty.

7 THE COURT: With respect to Mr. Gardner and Count 16,
8 does the jury find that said death was the result of a willful,
9 deliberate, malicious and premeditated act?

10 THE FOREPERSON: No.

11 THE COURT: With respect to Mr. Gardner in Count 16,
12 does the jury find that said death resulted in the perpetration
13 of a robbery?

14 THE FOREPERSON: Yes.

15 THE COURT: With respect to Count 17, Mr. Foreman, how
16 does the jury find with respect to defendant Shawn Gardner?

17 THE FOREPERSON: Guilty.

18 THE COURT: With respect to Count 18, Mr. Foreman,
19 felon in possession of a firearm, how does the jury find with
20 regard to death Shelton Harris?

21 THE FOREPERSON: Guilty.

22 THE COURT: Finally, Mr. Foreman, how does the jury
23 find with regard to Count 19, witness retaliation, as to
24 defendant Shelton Harris?

25 THE FOREPERSON: Guilty.

1 THE COURT: Thank you, Mr. Foreman. And I note that
2 you have indeed signed and dated the verdict sheet on behalf of
3 the jury. Madam Clerk, please take a poll of the jury.

4 THE CLERK: Juror Number 12.

5 THE WITNESS: Affirmative.

6 THE CLERK: Having delivered the verdicts of the jury,
7 are those your verdicts?

8 THE FOREPERSON: They are.

9 THE CLERK: Juror Number One, having heard the verdicts
10 of your foreperson, are those your verdicts?

11 JUROR NO. 1: Yes.

12 THE CLERK: Juror Number Two, having heard the verdicts
13 of your foreperson, are those your verdicts?

14 JUROR NO. 2: Yes.

15 THE CLERK: Juror Number Three, having heard the
16 verdicts of your foreperson, are those your verdicts?

17 JUROR NO. 3: Yes.

18 THE CLERK: Juror Number Four, having heard the
19 verdicts of your foreperson, are those your verdicts?

20 JUROR NO. 4: Yes.

21 THE CLERK: Juror Number Five, having heard the
22 verdicts of your foreperson, are those your verdicts?

23 JUROR NO. 5: Yes.

24 THE CLERK: Juror Number Six, having heard the verdicts
25 of your foreperson, are those your verdicts?

1 JUROR NO. 6: Yes.

2 THE CLERK: Juror Number Seven, having heard the
3 verdicts of your foreperson, are those your verdicts?

4 JUROR NO. 7: Yes.

5 THE CLERK: Juror Number Eight, having heard the
6 verdicts of your foreperson, are those your verdicts?

7 JUROR NO. 8: Yes.

8 THE CLERK: Juror Number Nine, having heard the
9 verdicts of your foreperson, are those your verdicts?

10 JUROR NO. 9: Yes.

11 THE CLERK: Juror Number Ten, having heard the verdicts
12 of your foreperson, are those your verdicts?

13 JUROR NO. 10: Yes, they are.

14 THE CLERK: And Juror Number 11, having heard the
15 verdicts of your foreperson, are those your verdicts?

16 JUROR NO. 11: Yes.

17 THE CLERK: Members of the jury, harken to the verdict
18 as the Court has recorded, and the verdict form and answers
19 thereto, that defendant, Willie Mitchell, is guilty of Counts 1,
20 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13 and 14; defendant Shelton
21 Harris guilty of Counts 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13,
22 14, 18 and 19; defendant Shelly Martin is guilty of Count 1, not
23 guilty on Count 5, not guilty on Count 6, guilty as to Count 8,
24 not guilty of Counts 12, not guilty on 13, and not guilty on 14;
25 and defendant Shawn Gardner, guilty as to Count 1, not guilty as

1 to Count 5, not guilty as to Count 6, guilty as to Count 7,
2 guilty as to Count 8, not guilty as to Count 12, not guilty as to
3 Count 13, not guilty as to Count 14, guilty as to Count 15,
4 guilty as to Count 16, and guilty as to Count 17. And members of
5 the jury, these were your answers as read by the court and
6 answered by your foreperson and so you say all?

7 JURORS: Yes.

8 THE COURT: Thank you, Madam Clerk. Mr. Foreman and
9 ladies and gentlemen of the jury, your service in this case has
10 been absolutely nothing but exemplary. We have imposed on you in
11 ways that few members of our community ever are asked to do so.
12 And you have assumed these responsibilities in good humor, with a
13 seriousness of purpose, and a conscientiousness that I will tell
14 you I will always admire.

15 Your service is now concluded. You are free to discuss
16 the case or not discuss the case as you choose.

17 No one associated with the case will attempt to contact
18 you, including the lawyers. But I myself would like to at least
19 visit with you briefly when you are excused. So if you have a
20 few minutes to stick around in the jury room, I would like to
21 come in and thank you personally for your service.

22 What will happen now, of course, is that the Court will
23 schedule the matter for further proceedings, including sentencing
24 of the defendants, who will each have an individual sentencing
25 hearing, represented by counsel. It may be that counsel may file

1 motions with the Court requesting reconsideration of some of the
2 earlier rulings of the Court.

3 Once sentence is imposed, each defendant will have the
4 right to appeal the sentence that's imposed and the judgment of
5 conviction. And an appellate court in due course will review
6 these proceedings to determine whether some error I made or some
7 error the government made had the effect of depriving the
8 defendant individually of a fair trial.

9 For my part, having sat through this proceeding with
10 you and having lived with the case for well over four years now,
11 I can only tell you how thankful I am for your service and for
12 your availability as jurors in this case. We salute you for the
13 work you have done in this case and for the way you've gone about
14 your work.

15 So you are excused to return to the jury room. And if
16 you can just wait a few minutes, any of you who can do so, I
17 would like to come in and express my appreciation.

18 The jury is excused. Mr. Foreman, if you will hand the
19 verdict sheet to Ms. Arrington. You're excused.

20 (Jury exits the courtroom.)

21 THE COURT: Counsel, it was a pleasure having you
22 appear before the Court, as I've said to you on several
23 occasions. Your work in this case has really, I think, shown an
24 important light on the important role that lawyers, for very
25 little pay, toil so tirelessly in pursuit of justice for your

1 clients. So I salute each of you.

2 I would like to schedule the sentencings in this case
3 right now. Please have a seat.

4 I'm going to set aside sufficient time in each instance
5 should any defendant wish to file a Motion for Judgment or for
6 New Trial. I think that the matters are sufficiently distinct so
7 rather than schedule one consolidated proceeding, I'm going to
8 proceed to schedule four separate sentencing hearings, with the
9 understanding that any of counsel in the subsequent proceedings
10 may join in any arguments presented on behalf of any earlier
11 appearing defendant.

12 I'd like to start on Friday, February 27th at 11:00.

13 I assume, Mr. Hanlon, Mr. Harding, you're available
14 that far out on Fridays by and large?

15 MR. HARDING: Yes, Your Honor.

16 MR. HANLON: Yes, Your Honor.

17 THE COURT: All right. February 27th. Mr. Lawlor, Ms.
18 Rhodes, would that work for you?

19 MS. RHODES: That's fine with us, Your Honor. Thank
20 you.

21 THE COURT: All right. 11:00 will be the disposition
22 on Mr. Mitchell.

23 The next Friday, March 6th. Mr. Martin, Mr. Flannery,
24 might that work, at 10:00?

25 MR. MARTIN: Yes, Your Honor.

1 MR. FLANNERY: Yes, Your Honor.

2 THE COURT: All right. 10:00 on March 6th as to Mr.
3 Harris. And then I'd like to do the next two the following week,
4 counsel, on Thursday the 12th and Friday the 13th. Which works
5 best for you, Mr. Coburn, Mr. Kurland?

6 MR. COBURN: Thank you so much, Your Honor. The 12th
7 would work for us.

8 THE COURT: Mr. Kurland?

9 MR. KURLAND: That's fine.

10 THE COURT: All right. Is 10:00 -- Thursday, March
11 12th at 10 a.m., disposition on Mr. Gardner. And then Mr. Pyne,
12 Mr. Crowe, hoping you're available at 10 on March 13th.

13 MR. PYNE: That's fine.

14 MR. CROWE: Yes, Your Honor.

15 THE COURT: All right. As to Mr. Martin, sentencing
16 will be March 13th at 10 a.m.

17 The Court will order Presentence Investigation Reports
18 and the defendants will be detained pending sentencing.

19 Thank you very much, counsel. The Court's going to go
20 in and just briefly thank the jury. And I thank counsel and I
21 will thank them on your behalf. We're in recess. Thank you. I
22 thank the marshals.

23 (Conclusion of Proceeding at 2:25 p.m.)
24
25

REPORTER'S CERTIFICATE

I, Mary M. Zajac, do hereby certify that I recorded stenographically the proceedings in the matter of USA v. Willie Mitchell, et al., Case Number(s) AMD-04-029, on December 8, 2008.

I further certify that the foregoing pages constitute the official transcript of proceedings as transcribed by me to the within matter in a complete and accurate manner.

In Witness Whereof, I have hereunto affixed my signature this ____ day of _____, 2009.

Mary M. Zajac,
Official Court Reporter

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